

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION

IN RE:

MARTIN LUTHER AUSTIN
SYLVIA LENNA AUSTIN
Debtor(s)

CASE NO. 15-40034
Chapter 13

OBJECTION TO CONFIRMATION

NOW COMES Rushmore Loan Management Services LLC, servicing agent for Christiana Trust, A Division of Wilmington Savings Fund Society, FSB, as Trustee for Stanwich Mortgage Loan Trust, Series 2013-7 ("Lender"), by and through its undersigned attorney, and objects to Confirmation of the Debtor's proposed Chapter 13 Plan and as grounds therefore respectfully shows as follows:

1. This Court has jurisdiction of this contested matter pursuant to 28 U.S.C. §§1334, 151 and 157(b).

2. On or about June 9, 2005, Martin L. Austin and Sylvia L. Austin (the "Debtor") executed a promissory note in the original principal amount of \$103,790.00 (the "Note"). Stanwich Mortgage Loan Trust, Series 2013-7 is the current owner and holder of the Note.

3. The Note is secured by a deed of trust against the Debtor's real property located at 700 Phillips Street, Shelby, North Carolina (the "Property") that was recorded in the Cleveland County, North Carolina registry of deeds office (the "Deed of Trust").

4. According to the Debtor's proposed Chapter 13 Plan, the Debtor has listed pre-petition arrears owed to Lender in the amount of \$2,400.00. Lender has not filed a proof of claim in this matter yet, however, Lender estimates that the pre-petition payment arrears will be approximately \$8,011.34 for payments due from July 2014 through February 2015. The actual arrearage claim may include additional amounts due for attorney fees, costs and other charges allowed by the terms of the Note and Deed of Trust. It is unclear from the Debtor's proposed plan whether the increase in the pre-petition arrearage claim will be feasible as the proposed plan does not state whether the Plan is a 60-month plan.

5. Lender objects to confirmation on the grounds of feasibility and insufficient arrears listed for Lender's claim.

WHEREFORE, Lender prays the Court as follows:

1. That the Court deny confirmation of the Debtor's proposed Chapter 13 Plan;
2. For a hearing on this Objection;

3. That Lender be allowed its reasonable attorneys' fees to the extent allowed under 11 U.S.C. §506(b); and

4. That Lender have such other and further relief as the Court deems just and proper.

DATED: March 23, 2015

/s/ Christine M. Lamb
N.C. State Bar No. 19616
Henderson, Nystrom, Fletcher & Tydings, PLLC
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CERTIFICATE OF SERVICE

The undersigned certifies that this day the pleading or paper to which this Certificate is affixed was served upon the person(s) listed below by mailing a copy of the same, properly addressed and postage prepaid via the United States Postal Service.

Martin Luther Austin
Sylvia Lenna Austin
700 Phillips Street
Shelby, NC 28150-5546

The following persons were served electronically.

Robert H. Lutz, Attorney for Debtor(s)

Steve G. Tate, Chapter 13 Trustee

DATED: March 23, 2015

/s/ Christine M. Lamb
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NOTICE OF HEARING

TAKE NOTICE that a hearing will be held on the Objection to Confirmation filed on behalf of Rushmore Loan Management Services LLC, servicing agent for Christiana Trust, A Division of Wilmington Savings Fund Society, FSB, as Trustee for Stanwich Mortgage Loan Trust, Series 2013-7 as follows:

Date: April 24, 2015
Time: 9:30 a.m.
Place: Cleveland County Courthouse, 100 Justice St., Shelby, NC

DATED: March 23, 2015

/s/ Christine M. Lamb
N.C. State Bar No. 19616
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